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NAZI CHANGES IN THE LAW OF REAL PROPERTY

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Description

This study sets out the basic principles of the German law of real property, as contained in Book III of the German Civil Code, and discusses the changes in Book III during the Nazi regime.

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NAZI CHANGES IN THE LAW OF REAL PROPERTY

I. PRINCIPLES OF THE GERMAN CIVIL CODE ON REAL PROPERTY LAW

The German Civil Code, like the Common Law, differentiates between personal property and real property. In Book III of the Code is found the basic formulation of both types of property law (Sachenrecht;) but the emphasis falls upon real property law.

The main subjects of this statute are: Besitz (possession), Eigentum (property), and Rechte an fremdem Eigentum (rights in property of others). Its chapters on possession and property contain rules for real and personal property but deal in some subdivisions only with real property law or personal property law.

Rights in property of others are - in general - stated in the Code in separate chapters for real and personal property. Such rights are defined as: Erbbaurecht (hereditary lease), Dienstbarkeiten (servitudes); Verkaufsrecht (right to acquire property in case of attempted sale) construed as a right in rem; Reallasten (profits a prendre); Hypothek, Grundschuld, und Rentenschuld (mortgages); and Pfandrecht an beweglichen Sachen und an Rechten (liens on personal property). Another chapter called "General Rules on Real Property" deals with the principle of registry of real property and its consequences.

The following basic premises underlying German property law merit explanation: the differentiation between possession as such and property as such; the abstract nature of real[1] transactions, as to both real and personal property; the difference between "property" which can only exist once, for one owner or a group of owners, and "rights in property of others," which are not regarded as "property"; the rule

1. "Real" as used here, and in many other instances in this paper, is used in the Civil Law meaning of the word. At Civil Law the word relates to a res, whether movable or immovable. Thus a real injury at Civil Law would include the common law "trespass to property." "Real rights" as understood in the Civil Law are analogous with what the common law lawyer understands as "quasi in rem" rights as well as straight "in rem" rights. See Bouvier's Law Dictionary, (1928) "Real," see also ICJ Actions 171 note 92, 93.

that only those types of rights in property of others which are specified in the Civil Code may be recognized; and the principle of registry of real property rights.

A. The Differentiation between Property as such and Possession as such.

This distinction of the code is very similar to that of common law. Basically, possession is not deemed a right. The leading commentary of the Civil Code says that "possession is not a true legal right." The doctrine runs that, in the meaning of the statute, the position of the possessor is based not on law but on facts. The same leading commentary says that "the domination of the thing by the possessor is not only a factual one, but it is legally justified." However, these are only words. The rules of the statute and the practice plainly protect the possessor. Possession gives the presumption of property in the thing, or of a right in the property of another, according to the situation. Possession can be transferred inter vivos, by a will, and by descent and distribution. Actions for restitution and indemnification can be brought in the courts against unjustified infringement or deprivation of possession. In certain instances where possession has been lost to another person without justification, an action even lies in quasi-contract. In many different cases, the possessor is liable to other persons.

The Civil Code makes a distinction between different kinds of possession. It distinguishes between the unmittelbarer Besitzer (direct possessor), mittelbarer Besitzer (indirect possessor), and Besitzdiener (dependent possessor). The direct possessor is the person who has a thing in actual possession. The right to possession is not essential. Even a thief has direct possession. The person who has the thing is still a direct possessor even if he is obliged to transfer the possession to someone else upon rules of property law or of contracts.

Indirect possession describes a situation in which a person has a right of possession, but must allow another person, the direct possessor, to retain possession of the thing for a limited time. Examples are the possession of a lessor, a depositor, a lien debtor, or a remainderman

toward a beneficiary for life or for a limited time. In all these cases the lessor, depositor, debtor, and remaindermen have no direct possession. But they are regarded as possessors with regard to third persons and are therefore protected by actions based upon possessory rights. Like a direct possessor, they can rely upon their "possession" without proving a specific property or some other right.

A dependent possessor is a person who has physical control of the thing, but remains subject to the orders of the legal "possessor." Examples are an employee or a servant using the goods in a household or those belonging to a commercial or industrial enterprise.

B. The Abstract Nature of Real Transactions

The second basic premise of German property law has been designated the abstract nature of real transactions. This is a principle totally opposite to common law ideas. According to this doctrine, which is universally recognized in German law, the property of a person, its transfer, and any other real transactions concerning it do not depend for their legal existence and validity upon contracts, agreements, or other legal acts which have created them. Even if these legal transactions can be attacked as invalid, the real transactions are not affected. The reasons justifying an attack on the contracts, agreements, etc., may warrant actions for the recovery of the property or the destruction of the rights on foreign property. These actions, however, are never real actions, but actions for restitution upon contract, tort, or quasi-contract.

If a contract or other legal act which is the basis of property transactions is void ab initio, later declared without force, or cancelled for any reason whatsoever, the property transaction remains valid as an act of real or personal property law. If, for example, a contract of sale is declared void because of deceit, lack of form, or the incapacity of a party, but the real transaction transferring the property right is not vitiated by the same fault, the property remains valid property of the purchaser even after a judgment has been rendered declaring the contract void. Similarly, if a will containing a legacy

has been declared void, but the property has been transferred to the legatee by the heir or executor by an act valid according to general rules, the property in the legatee is valid; his property right, as such not being affected by the invalidity of the will. Of course, in all these cases justice in effect will be achieved by other remedies; in the first case by an action in contract, tort, or quasi-contract; in the second case by an action in tort or quasi-contract. But the right of the transferee as a strict property right is a valid right until it is terminated by some new (property) transaction.

This right is retained until it is transferred to some other person. If the property is transferred to a third person, the transfer is valid without regard to the good or bad faith of the transferee; only a tort action can protect the person entitled to the property against the third person. Therefore, a strict difference must be made between "transactions underlying a transfer of property" (kausale Rechtsgeschäft), such as a sale, a gift or a will, and the "legal act transferring the property" (abstrakte Rechtsgeschäft or Eigentumsübertragung). The first transaction depends upon the economic basis and the general rules of the law of contracts. But the transfer of the property as such is independent of the kausales Rechtsgeschäft.

The abstraktes Rechtsgeschäft is also a legal act to be executed according to the general and special rules of the law. Consequently, parties to the abstraktes Rechtsgeschäft must be compos mentis and sui juris, or properly represented; fraud in the real transaction may vitiate it. Special forms may be necessary--for example, declaration of the transfer of real property before a judge or a notary. Faults in the real transaction cause it to be void, notwithstanding its abstract nature. Thus, if an insane person transfers real property in proper form, the transaction is void; again, if one party causes the other to transfer property by a fraudulent declaration to execute a lease, the transfer is voidable.

The abstract nature of the property applies equally to real and personal property, to all kinds of real transactions, to the transfer of

property, the creation of rights in property, and the cancellation or other destruction of those rights.

The deciding elements of the transfer of personal property are the "abstract" real agreement and the transfer of possession. The deciding elements of the transfer of real property are the "abstract" real agreement to be declared before a judge or notary, and the registry of this transfer by the judge in the books of registry kept by the court.

C. The Relationship between full Property Rights and Rights in the Property of Another

A further important difference between common law and civil law is the relationship between full property rights and rights in the property of another. According to common law, several kinds of property rights may exist in the same thing--such as general property rights and special property rights. An important example is the differentiation between the rights of a beneficiary for life, or for a lesser period, who is entitled to the fruits or products of a certain property, and the rights of a residuary or remainderman. Another example is the differentiation between ownership and mortgages; in the past mortgages were construed, and to a great extent still are construed, as property rights.

The German law, however, rejects this idea of different proprietary rights in the same thing. According to its statutes, property can belong to only one person (owner), or several persons of the same category (co-owners or joint owners). The property itself cannot be limited by a "real" agreement, either as to the period of ownership or with regard to the powers of the owner over it. However, an independent contract restricting property rights in time, or limiting the power of the owner over the property, may be a valid and enforcible agreement under German law. But no such agreement will affect the right or powers of the owner, as real rights, until the necessary complicated measures of execution have been complied with. Therefore, it is not possible under German law to make a real transaction inter vivos transferring the

property to "A" for life or for a certain period, and a remainder to "B". Property can be transferred only to "A", the transfer taking effect immediately at the time of the transaction. Any transfer of property to take effect at a future time or upon conditions, is, by statute, expressly declared void with regard to real property, (Par.925 (2) BGB). With regard to personal property, real agreements creating a qualified transfer of the property, imposing a time limitation or restricting the scope of ownership, have been allowed by German practice, after some reluctance, in a small number of special cases developed for certain specific purposes. The most important example is the transfer of personal property as security. But in this instance also the abstract nature of the property transaction has been upheld in most particulars.

Only in some exceptional cases have divided rights in property been recognized. The main exception is created by a special rule of the Law of Wills which provides that, as between two or more heirs or legatees, the respective rights of such heirs or legatees in the whole or part of an estate may be limited in time. One of them may be appointed as an heir or legatee for life or for a certain time, and a second one as an heir or legatee for the period after the termination of the first one's rights. They are called respectively Vorerbe and Nacherbe; and Vorvermächtnisnehmer and Nachvermächtnisnehmer. These terms imply respectively "beneficiary for life, or for a certain time," and "remainderman"--either as an Erbe (heir) or as a Vermächtnisnehmer (legatee).

D. Limitation of the Rights recognized by Law to the Rights expressly specified in the Civil Code

As a consequence of this general German principle not to divide rights in property, all rights in the property of another have been codified in the Civil Code, and only those rights thus expressly provided for are legally valid. Parties cannot create, by agreement or by will, any rights in the property of another which are not regulated by the Civil Code. They may not change the nature of such rights except as provided for by statute.

However difficult and strange this principle may sound to common law lawyers, accustomed to the doctrine of free moulding of property relations according to the will of the parties, in actual practice the civil law is not so different from that of the common law. Common law has developed several distinct institutions of restricted property, but has rejected any abnormal applications of its liberal provisions. Conversely, German practice has given some leeway to the parties. In legal practice, the principles of restricted property developed in English law are very similar to the restricted rights in the property of another provided for by the statutory rules of the German Civil Code.

The rights recognized by the Civil Code, and some supplementary statutes, have been enumerated above. Their character is as follows:

The Erbbaurecht (hereditary lease) is a right very similar to a common law lease. It is not regarded as a lease by the German Civil Code simply because the code construes leases as mere contractual rights. The Erbbaurecht is a real property right, entitling its owner to have and hold a building on the land of another. The right can be transferred by agreement or by will. It may not be limited to only a part of a building. It must, moreover, be a right superior to any real rights of other persons in the land. It cannot, consequently, be given for land burdened by a mortgage or by servitudes. The hereditary lease itself may be mortgaged to creditors of the lessee.

"Dienstbarkeiten" (servitudes)[1] are rights to use the real or

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1. As the text illustrates, "servitudes" is used here in the Civil Law meaning of the word. At common law this word usually connotes an easement or some other burden imposed on a servient estate for the benefit of a dominant estate. But at Civil Law a servitude may be personal as well as for the benefit of some dominant property, and it may exist in connection with personal property as well as realty. See Bouvier's Law Dictionary (1928), "servitudes," see also 40 C.J. Modern Civil Law, section 247 et. seq.

personal property of another in certain manners. They exist as rights to use real property for the personal interest of an individual (persönliche Dienstbarkeiten) or for the interest of adjacent real property (Grunddienstbarkeiten). They may also give the restricted right to receive the profits of real or personal property. Therefore, in German law, the estate of a beneficiary for life, or a beneficiary for a certain time, is construed as a special servitude (Niessbrauch). A Niessbrauch can exist in favor of an individual or a corporation. It cannot be transferred inter vivos or by will.[1] The Niessbrauch can be created only for the life of the person or the existence of the corporation entitled to it; it may,however, be limited to a shorter period of time.

The Vorkaufsrecht (right to acquire property in case of attempted sale) is a real right enabling the possessor of it to acquire the real property of another person if this person intends to transfer it to a third person. The person having the Vorkaufsrecht may, by a real action, recover the property from its owner or from the third party transferee.

Reallasten (profits a prendre) are rights to the receipt of payments of certain amounts, or to certain performances in kind; they are real rights in the real property of another. They are not regarded as servitudes, but are construed as a special class of rights. They may be created in favor of a person or of the owner of adjacent real property.

The German law recognizes only mortgages as security rights on real property, and only liens as security rights on personal property. All mortgages have the character of liens, in the common law sense. A mortgage, if connected with a debt, is called Hypothek. The security right may,however, also be disconnected from any debt and established as an abstract right in the real estate without any personal debtor. It is then called Grundschuld (real estate property debtor). It can also be construed as a right to certain interest payments, though not to a

1. For an exception, see chapter III below.

capital payment. This is called Rentenschuld (right to interests to be paid out of real property). Liens on personal property may exist on both corporeal and incorporeal property, and are known as Pfandrecht.

Mortgages and liens authorize the owner of the right to compel a sale of the property, subject to the lien or mortgage, for the payment of the debt owed upon the mortgage or lien. The sale of real property can never be a private one. It can be executed only by the court, or in some states of Germany, by a notary. Personal property must be sold by public sale.

E. Registry of Real Property Rights

The last important feature of the real property law of the Civil Code is its rigid rule of public registry. Each plot of real estate is described in a special file. These files form the Grundbuch (land register); the file of each plot is a Grundbuchblatt (land register leaf). The register itself is kept by the court. Rights in real estate can be created or transferred only by an entry in the register. The precedence of one right over another, especially in the case of mortgages, is determined by the numerical order of their registration. This system of registration affords protection for the public. If a person acquires a registered right from its registered owner in good faith, he is fully protected against anybody else entitled to the right, including the true owner, even though the latter is not guilty of any fault.

II. NATIONAL SOCIALIST THEORIES AND LEGISLATION CONCERNING REAL PROPERTY LAW

A. The Nazi Theory

National Socialist spokesmen often declared in emphatic words the movement's revolutionary character and its determination to rebuild the law on new foundations. Discussing the renovation of the law of property in particular, Nazi lawyers frequently stressed that basic changes in the character of property (Wandlungen der Eigentumsverfassung) had taken place and that it was consequently necessary to modify the whole law of property--its basis, the trend of its development, and its application in daily practice. This transformation was to apply equally to real and personal property. It was to reflect the new concept of unlimited reverence toward, and unrestricted power of, the state, and the alleged new idea that the institution of property should serve the interests of the community, not the individual. Despite these highsounding resolutions, actual changes in the German law were not impressive. The Nazis failed to achieve even the legislative formulation of those concepts especially attractive to their theory, such as the law of the Unternehmen (the enterprise as a legal unit) or the Treuhand (trust). The law of personal property remained virtually unchanged. Accordingly, the following analysis will confine itself to questions of real property.

B. Purposes and Subjects of the Changes in Real Property Law

The National Socialist Party program--the twenty-five points of 24 February 1920--state: "We demand an agrarian reform suitable to our national requirements ... the abolition of ground rents; and the prohibition of all speculation in land"; and again: "We demand that all unearned incomes shall be abolished." In another fundamental National Socialist statement,[1] it was declared that "The living ... and the basis for the food supply of the German people are its terri-

1. Quoted as a typical formulation of National Socialist principles in "National Socialism: Basic Principles," prepared in the Special Unit of the Division of European Affairs of the Department of State.

tory and soil. The farmer is the first and deepest representative of the people since he nourishes the people from the fertility of the earth, and since he maintains the nation through the fertility of his own family. Here National Socialism had to accomplish two great legal ends: the reestablishment and the protection of the farmer class and the securing of its land for the farmer family."

An extrinsic view of the legislation concerning property rights from 1933-1945 shows a great number of statutes and decrees on various other questions. But closer inspection shows that only three important problems were actually dealt with: (1) separation of agricultural property from the capitalistic economy, (2) liberation of real property from capitalistic enslavement, and (3) protection of the tenants. All the other statutes and decrees are merely applications of old rules of property law. It is true that, for example, application of the rules of eminent domain has been considerably extended, and the procedure of registry of real estate unified through the Reich. But neither of these amendments of the statutes, nor the alterations in the law concerning various minor subjects such as "Neighbor Law," "Law of Hunting," "Law of Entailed Property of the German Nobility" (Fidei-Kommisse), or "Improvement of City Settlements by Supporting Small Garden Plots," can be considered as basic changes.

The "separation of agricultural property from the capitalistic economy" was attempted only for that part of the agricultural domain regarded as the most important, namely, the "peasant's estate" (Erbhof), comprising land, house, barn, and implements. This estate was established as a single, separate, indivisible unit, not transferable by contract, deed, or will, descending from father to son as an integral whole. The law of the "peasant's estate" has been regulated by a series of statutes and decrees and has been developed so as to constitute a more or less independent legal system. All the rules concerning peasants' estates refer only to this special class of agricultural property. For other agricultural property which did not form a peasant's estate the connection with the normal economic system was

not dissolved.

The "liberation of real property from capitalistic enslavement" proved in practice a rather empty slogan. Its measures--alleviation of interest payments and protection in case of incapacity to pay debts--had already been introduced by preceding governments. The fourth Decree of the Reich President for the "Protection of the Economy and Finances and the Security of Internal Peace" of 8 December 1931,[1] and several additional decrees, had generally decreased rates of interest formerly 6 and 8 percent to a maximum of 6 percent and reduced the higher rates proportionately. The special protection of agricultural property had also already been stressed. The rate for mortgages on agricultural property had been decreased by 2 percent by a decree of 27 September 1932,[2] and several additional measures. While the Nazis amended these statutes and decrees through a great number of new ones, in substance they only followed the already established ways.

Protection of real property was attempted by various measures: by general decrees which were especially applicable to real property for the settlement of the debts of an overburdened debtor; by special decrees for the settlement of debts secured by mortgages or other rights in property;; by special decrees for the reduction of interest on mortgages and other rights in property; and by special decrees protecting the owner of real property in execution procedures. The special decrees of the three last classes were published in two forms: as decrees affecting any real property and as special decrees affecting agricultural property.

As for protection of tenants, the German law differentiated between leases of property which does not yield emblements or minerals, such as houses, apartments, stores and offices and property which does yield emblements or minerals, such as agricultural property, quarries, etc. The first kind of lease is called Miete and the tenant Mieter;

1. Part I, Chapter III, RGBl, I, 699.
2. RGBl, I, 480.

the second Pacht and the tenant Pachter. Each category has been created separately by several statutes and decrees. Those dealing with the Mieter provide roughly the same protection afforded tenants in American cities in recent years. Those affecting the Pachter give protection like that enjoyed by agricultural tenants under contemporary American legislation.

The German law, it may be noted, is strictly systematic. Protection of real property owners against execution,(foreclosure), both in the preparatory stage and in the actual executive procedures, is provided for in the Law of Practice. Thus, in the German legal system the law of tenancy is not part of the real property law. According to concepts of civil and Roman law, and contrary to the common law system, tenancy is not regarded as a property right, but, as stated above, as essentially a contractual relationship. Even if some aspects of tenancy are similar to property institutions, such as possession by the tenant, his protection against expulsion, or the lien of the landlord, the general aspect remains contractual. It seems appropriate, then, that a survey of German property law and its changes by the National Socialist Government should concern itself with the traditional ideas of the civil law, and leave discussion of the law of tenancy to the subject of contracts.

C. The Form of the Legislative Acts

In adapting the civil and other codes to National Socialism, the Nazis followed two systems. Sometimes they would delete whole chapters of the codes and replace them by special statutes, as with their important changes in the law of divorce and the law of wills in the Civil Code, and in the corporation law of the Commercial Code. In other cases, they made new statutes without revision of the basic chapters or rules of existing codes.

This second method was employed in changing the real property law of the Civil Code. No part of book III of the Code, which contains the law of property, was expressly replaced by the Nazi statutes. Yet

the new rules on peasants' estates constituted a major revision of the principles laid down in that Code.

D. The Influence of Nazi Suppression of Outlawed Groups on Real Property Law

Nazi suppression of the Jews and various opposition elements, which was achieved by a combination of legal enactments, administrative measures, and acts by the Party and its individual members, included also restrictions imposed on the persecuted group in the use and disposition of its property, as well as sequestrations and confiscations.

This led, naturally, to much uncertainty concerning all legal transactions connected with the property of such individuals and their organizations. Regulations dealing with their property were accordingly laid down in various statutes and decrees. The most important of these were the following: the Statute on Confiscation of Communist Property, 26 May 1933, (RGBl., I, 293); the Statute on Confiscation of Property Used for Purposes Inimical to the People, 14 July 1933, (RGBl., I, 479); and the Statute on Denationalization, 14 July 1933 (RGBl., I, 480). Under these and similar statutes and decrees, discrimination against communists, socialists, labor unions, and Jews who had left the country was legalized.

For the technical management of the property of emigrated Jews, for its entry in the public registers, and for the indemnification of mortgage creditors and other persons interested in the property, special rules were provided in the Statute of 9 December 1937, (RGBl., I, 1333), with several additional decrees, especially those of 18 March 1938 and of 8 October 1940 (RGBl., 1938, I, 317; 1940, p. 1,340). Until the publication of this Statute on the Payment of Indemnity on the Occasion of the Confiscation of Property, a more or less lawless situation had existed with regard to the rights, and the indemnification, of these creditors and other interested persons. The statute did not establish a right to indemnity, but rather established the rule that the confiscated property became the free property of the German

Government (Par. 1). All liens, mortgages, and other rights in the property were destroyed (Par. 2). The same rules applied to persecuted corporations or organizations which had been liquidated and whose property had been confiscated (Par. 3, 4, 5). Persons having real rights in the property, and the creditors of the persecuted individuals, corporations,or organizations, lost any rights they had in or to the property. They had no legal right to indemnity, the statute providing only for the possibility of an indemnity (Par. 6, 18, 32). No indemnity was to be paid if the creditor, former mortgagee, etc., had facilitated, intentionally or negligently, any actions regarded as inimical to the German people or state, especially Communist movements. In practice this rule (Par. 6) excluded from indemnity,if they had not been converted to the Nazi cause, Jews and Socialists.

A claim for indemnity could not be brought into the courts. The government, through a special system of administrative authorities, rendered a decision according to its own discretion. Thus, the new law robbed of certainty any credits advanced on the security of German real estate, if the owners were Jews, Communists, or enemies of the state. The creditor lost his security without any legal rights to indemnity.

This situation evoked an early reaction from abroad. Foreign creditors were afraid that the new enactments had undermined sureties in Germany. Credits extended to German debtors seemed more insecure than ever. Consequently, the Nazi Government promised that it would not in the future employ the power to destroy rights in real property; it did not, however, promise anything regarding rights previously destroyed.

While it was pretended that these acts of confiscation were a legal exercise of statutory authority, the administration and the Party did not always bother with such justifications. Expropriation of property, for example, was often done without pretense of legality. Principle methods used were corporal punishment of and economic

pressure against the property owner. The first often consisted in confining the owner to jail or a concentration camp, release being possible only upon entering into a "sale" at a price ordered by the Nazi Party. The profits from such transaction generally were distributed among the purchaser, the Party, which received an officially stated share, and favored Party officials. As for economic pressure, it often took the form of sequestration of the property in a criminal proceeding, or without any legal form, simply upon an order of the Gestapo. No legal protest against such sequestration was allowed. The owner lost any power in connection with his property, even that of receiving information or an accounting. He had no alternative, in short, but to accept the proposals of his persecutors.

These measures not only arbitrarily destroy the property rights of the victims and those of their creditors, but shattered the basic principles of the law of property as an institution of legality, protection, and security.

III. SPECIFIC CHANGES BROUGHT BY THE NAZIS

A. Changes in the Law regarding Agricultural Property

1. Peasant's Estate Act. The Peasant's Estate Act (Reichserbhofgesetz) of 29 September 1933[1] was intended to be the realization of Hitler's ideas on agricultural reform, as broadly discussed in Mein Kampf and in many other Nazi publications. Its basic purpose was to restore the peasantry as the fundament of the state, people, and economy.

The preamble of this statute began by making a distinction between the owner of a peasants' estate (Erbhof), who is to be known legally as a (Bauer), and the owner of any other agricultural property, who is to be called a farmer (Landwirt). It was declared illegal to use different names for the owners of peasants' estates and other agricultural property.

According to the statute only these persons who were of German nationality and of German or cognate blood, and who were honest and able, could hold the title of peasant. If a peasant should be deemed lacking in one of these qualifications, the government could transfer his right to administer and use his property, or even the property itself, to other persons having the necessary qualities. Jews and persons who had any Jewish forefathers after 1 January 1800 could not be peasants.

The peasant's estate was stated to be a res extra commercium. It could not be sold or transferred inter vivos, disposed of by will, or divided under the rules of descent and distribution. At the death of the peasant, the peasant's estate was to become the property of his "heir" by force of law. The statute designated as heir the relations of the peasant in the following order: the sons or other male issue; the father; the brothers; the daughters; and lastly the sisters of the peasant. Only one individual of each group could be the heir. A peasant could, under certain circumstances, choose and appoint his heir within the designated groups. This was allowed, in

1. RGBl, 1933, I, 685

particular, in those regions where a power of selecting an heir previously existed in the form of a local custom, or in those regions where there was no local custom to the contrary.

In a Declaration of 28 September 1940,[1] the customs of the different provinces of Germany and Austria were officially stated and published. The Declaration asserted that in certain important regions of Western Germany - within the jurisdiction of the Courts of Appeal of Frankfort am Main and Cologne, and most of the territory within the jurisdiction of the Courts of Appeal of Düsseldorf, Darmstadt and Karlsruhe, and in the city of Vienna - no regional custom on the point existed. Accordingly, the right of the peasant in these sectors to choose and appoint an heir was upheld.

To be regarded as a peasant's estate, land had to be administered as a unit by the peasant living on it. It had to be of medium size, but sufficiently large to sustain a peasant's family. In highly developed regions, e.g., in wine-growing territory, a minimum of approximately thirty acres was held sufficient; in other regions the estate had to be larger. No estate, however, was to exceed 125 hectares (approximately 300 acres). (Peasants Estate Act, Par. 2, 3).

Peasants' estates were subject to public supervision, which was entrusted to special bureaus. These bureaus could allow the transfer of a peasant's estate in extraordinary cases, especially if the peasant wished to transfer his estate during his life to his heir, and if the agreement was not too onerous for the heir. In exceptional cases the government could grant other dispositions.

Foreclosure of peasants' estates was complexly regulated. Generally, no creditor could come and demand an execution on the erbho . But the leader of the district peasants' organization could take over the debts of the peasant, and then obtain an execution on such earned crops as were not essential to the peasant's existence. Similarly, the state could not obtain an execution for taxes, except on those

1. Deutsche Justiz, p. 1109

earned crops not essential to the peasant. The leader of the peasant's organization was entitled to act for either private or public creditors. (Par. 37, 38, 39). In exceptional cases, however, a Government permit could authorize full execution. (Par. 39 of the statute and par. 41 of the decree of 21 December 1936, RGBl. I, 1069).

If a peasant was found to lack the necessary qualities of honesty and ability, and especially if he did not pay his debts, although able to do so, special authorities could transfer the administration, use, and profits of the property, or even the estate itself, indefinitely or for a specified time, to the heir during the life of the peasant, or if no heir existed, to a stranger. In such cases the peasant was not to receive any indemnity, nor did the appointee have to pay anything.

The children of a peasant received neither a share in the peasant's estate nor any payment. They had only the right to receive support and education from the estate up to 21 years of age, and for longer if they were in need without fault on their part (right of home-shelter, Heimatzuflucht). An analogous right existed for the parents of a peasant, and for his widow as long as she did not remarry. This was called Altenteilerecht (old age support).

The special authorities set up to decide all cases based upon the Peasants' Estate Act were called Peasant s' Courts. They functioned on three levels--as a trial court and as lower and higher courts of appeals. The trial court was composed of three judges; one was supposed to be a lawyer; the other two, peasants. In appeal cases, peasants were also called as members of the court.

2. Transfer of Agricultural Property. Sales and transfers of agricultural property and forest land in Germany were subjected to, and made dependent upon, the consent of the Government ever since 1918. The National Socialist Government extended its control over such properties by several decrees.[1]

1. Decree of 15 March 1918 as amended on 26 January 1937, RGBl., I, 35; and several additional decrees, especially 26 January 1937, 2 April 1937, 29 March 1938, RGBl., 1937, I, 34,102,534; 1938, p.361.

Consent of the Government became necessary in connection with any property exceeding a certain size, which differed in various sections of the country from approximately 1-1/4 acre in the highly developed agricultural region of the west (Baden, Hesse, the Saar, and the Palatinate) to approximately 12-1/2 acres in the east. The decree applied to all kinds of transfers and leases, and even to sales by judicial execution. Any transfer without the consent of the government was held invalid, whether attempted by contract or upon judicial execution. The Government, however, made no decision in such matters without having asked for the opinion of the "local farmer's leader" (Kreisbauernführer). In some exceptional cases, the obtaining of a license was dispensed with--for example in transactions with the Government or with the National Socialist Party; transactions to which a Minister had consented; some special transactions for the improvement of German farms and small settlements; and any transactions between close relatives. The Government was only to supervise the transfers, not to act as a barrier to them. Thus the Government is obliged to give a license for a contemplated transfer, except where contrary to some major public policy--for example, if the buyer were not actually a farmer, if an uneconomic division of the property was intended, if the transaction would cause the economic destruction of a farm entity, or if the price were unreasonably high or low. Unlicensed transactions were punishable.

As for statutes intended to achieve a decrease of the interest rates payable on mortgages on agricultural property, and to protect such property owners against the pressure of debts, they constitute merely a special application of similar general statutes, and will be discussed with them.

B. Main Changes in the Law Regarding Real Property Generally

1. Special Rules for Compositions with Creditors for Persons who have lost real Property in Economic Distress.

Pre-Hitler law in Germany already provided rules for compulsory arrangements between debtors and creditors in order to obviate bank-

ruptcy proceedings. The National Socialist Government adopted these ideas, enlarged them greatly, and provided for special applications of them in favor of its adherents. The statute on the Settlement of Old Debts (Gesetz für eine Bereinigung alter Schulden)[1] of 17 August 1938, as amended and republished on 3 September 1940, gave three classes of debtors special privileges for achieving a composition with their creditors. These classes comprised those who had lost their means of subsistence, or who had become heavily indebted in consequence of the "economic difficulties existing before the National Socialist Government took power, or in consequence of their adherence to, and services for, the National Socialist struggle for power." (Par. 1,2,3). They were divided into (a) those owning their own businesses, factories, shops, etc., and professional men; (b) those who had lost a house or other real property; and (c) workers and employees. In all these cases the statute provided that a debtor who became insolvent before 1 January 1934 should be presumed to have lost his means of subsistence in consequence of economic difficulties existing before the National Socialist Government took power, except where such debtor became insolvent by dishonest or reckless conduct. (Par. 14, sec. 5).

In class (b), those persons were privileged by the statute who had lost their house or other real property before the Nazis took power, through bankruptcy, execution, contract, voluntary sale, or in any other way connected with the payment of creditors.
The assistance of the court in negotiating a settlement in these cases was granted only if the debts were incurred before 1 January 1934, and were secured by a mortgage or lien on real property, or resulted from such mortgage or lien. The help of the court could not be granted to a man who acted in a dishonest or reckless way, or who was not regarded worthy of it by National Socialist standards, or especially, was not a Jew. (Par. 5). The same provisions were declared applicable to the territories annexed by the Reich after 1934 as well as to the Saarland

1. RGBl., I, 1209

and the Sudeten territory, though other minimum dates were established.

The judge, in granting relief in these cases, was to be guided by the principle that the debt should be reduced proportionately with the economic capacity of the debtor. Creditors, moreover, were obliged to give the debtor such help as he needed "to rebuild his position in life."

The judge was not required to treat all creditors alike. The social significance of the claim, and the financial position of the creditor, were of main importance in considering the extent of the payments to be made to him (Par. 6,7). If, though helped by the court, the creditors did not reach an agreement with the debtor, the court then was to formulate a composition according to its discretion, with which the parties were obliged to comply; it had the force of a judgment. The court, further, had the power to change or amend any former agreement or judgment (Par. 14,15), and could also alter the rights of a creditor against third persons, co-debtors, or sureties, and his rights in property given as surety by third persons (Par. 8,14-16).

With regard to creditors secured by mortgages, the court could order a decrease of the interest rate and an extension of the time of payment, if it would enable the debtor to meet his obligation in the future. If a creditor had purchased the real property of the debtor at an execution, and subsequently had sold it at a profit, or if he had not yet sold it but the value of the real property had increased considerably since the creditor purchased it, the judge could reduce the old debt for the amount of this profit, or for the increase in value, discharging the liability of the debtor and his sureties pro tanto. This ruling could be obtained in special proceedings, even though the debtor had not filed a general application for composition, and even if the economic stability of the debtor would not be endangered by the payment of the debt. (Par. 10). The judge could stop an execution immediately upon the application of a debtor, and could render any other injunction serving the purposes of the procedure.

Decisions rendered in the composition proceedings could be charged later if any creditors had been overlooked; or if the debtor did not perform his obligations according to the composition, although able to do so; or if the debtor became unworthy of the privileges of the statute; or upon extraordinary improvement or deterioration in the economic position of the debtor (Par. 20). A special rule allowed trustees to agree, in these proceedings, to any release or reduction of claims or collateral without committing a breach of trust. (Par. 27).

A series of acts laid down special rules for a composition by the owners of agricultural property with their creditors, and a special bureau (the Composition Office) was handed broad powers to force upon creditors, where necessary, a scheme for reducing and paying the debtors' obligations. To finance this scheme, the Government provided credits. The first of the acts establishing this arrangement was the Statute for the Settlement of Agricultural Debts (Gesetz zur Regelung der landwirtschaftlichen Schuldverhältnesse)[1] of 1 June 1933. It was followed and amended by twenty-four additional statutes and decrees directed to the same end. These acts were often very long and complicated. The act of 1 June 1933, for example, contained 106 sections.

2. Reduction of Interest Rates. In German law, one series of decrees provided for a reduction of interest rates in general, another series ruled on the reduction of interest on mortgages, and still another contained special provisions for agricultural property. Only the two last series will be discussed here.

Mortgages in Germany were estimated in the 1930's at thirty to thirty-five billion Reichsmarks, of which approximately twenty-two billion belonged to financial institutions and the remainder to individuals. Legislation for the reduction of interest rates on mortgages can be divided into three stages. The first was that of the Emergency Decree of 8 December 1931; the second, the conversion of 1935; the

1. RGBl, I, 331.

third, the Decree of 1936.

The decree of 1931, with two amendments (those of 23 December 1931 and 26 March 1932[1]), reduced the interest rate on mortgage and similar bonds. On mortgages bearing an interest rate of from 6 to 8 percent, it lowered it to 6 percent, and it reduced the higher interest rates proportionately. The statute of 24 January 1935,[2] with six additional statutes and decrees, brought a further reduction of the interest rates for bonds and mortgages. The statute of 2 July 1936,[3] with two additional decrees issued on the same day,[4] constituted a restatement and extension of these trends.

This last statute stated in its preamble that the effect of the Acts of 1935 had been to reduce the rate of interest on mortgages to a rate justified by the economic circumstances. The Government now asked those creditors who had not reduced the rate of interest on their mortgages to follow the example of other creditors. If parties to such mortgages failed to come to an agreement, the courts were to make an appropriate settlement which was to have the binding effect of an agreement.

Further, the law provided that a mortgagor was obliged to reduce the interest on the mortgage to a rate deemed reasonable in the general economic circumstances and his special situation. If the parties could not reach an agreement, the judge, on application of one of them, was to attempt to resolve their differences. If his endeavors also failed, he was to set an appropriate rate of interest himself. He could decide with regard to unpaid interestat the time of the application, as well as to interest not yet due.

While the statute was to apply to virtually all debts secured by a mortgage on real property in Germany, some mortgages were exempted--such as those which were not intended as long term credits

1. RGBl., 1931, I, 699, 793; 1932, p. 171
2. RGBl., I, 45.
3. RGBl., I, 533.
4. RGBl., I, 536, 537.

on the land; those which secured bonds issued in foreign countries; and those which belonged to mortgage banks which had reduced the interest in compliance with statutes of 1933. Also exempt were mortgages of public corporations and of other institutions supervised by the Government. Mortgages created before the end of the German inflation in 1923, which had been aufgewertet (reestablished in terms of the new currency of the Reich after 1923), were subject to a special regulation which provided that the interest which had been accorded to the creditor under the reestablishment procedure should normally not be reduced except in cases of hardship for the debtor. Trustees were allowed to agree to the reduction of interest without being liable for breach of trust, and such a reduction could be permitted by the court regardless of any former decisions; they became, in short, res judicata.

Decrees dealing with execution of the statute provided that the general rate of interest should be 5 percent, and, for mortgages exceeding 50 percent of the value of the real estate and not otherwise sufficiently secured, 5½ percent or 6 percent. Where hardship would result for creditor or debtor, this could be taken into consideration, but it could not lead to a reduction of the interest below 5 percent, or an increase above 6 percent. Where the debtor was delinquent with the payments, increase of the rate could not exceed one percent.

Interest on mortgages on agricultural property was regulated by a series of special statutes and decrees, beginning with a decree of 27 September 1932,[1] reducing the interest rate by 2 percent but not below 4 percent. The principal statutes were those of 28 September 1934 and 31 July 1935,[2] which upheld the former reductions, reduced the interest rate on mortgage bonds to 4½ percent, and extended the time for the payment of mortgages until 1 April 1940.

1. RGBl., I, 480.
2. RGBl., 1934, I, 860; 1935, p. 1057.

Special rules for the creation of liens on implements belonging to tenants of agricultural property were provided in the "Statute Regarding Easier Credit for Tenants of Agricultural Property" of 9 July 1926, as amended on 18 March 1933.[1]

3. Moratoria. The "Decree on the Payment of Mortgages of 11 November 1932[2] ordered moratoria for debts secured by mortgages, and for mortgages themselves, until 1 April 1934. Upon application of the creditor the court could order that payment of the debt, either in full or in part, be made in advance. The moratorium did not affect however, several kinds of mortgages enumerated in the decree. The period of delay was extended several times by different decrees, the great number of which led to considerable confusion. For example, the time for payment was extended until 1 July 1939 by two acts.[3] By the decree of 22 December 1938, definite disposition with respect to the time of payments on old mortgages was provided for.[4] It ordered that the payment of all mortgages in existence on 30 January 1933 could only be requested three months after a new notice had been given by the creditor. In case the debtor was not able to pay, the court was empowered to fix the time of payment according to all the circumstances of the case. The decree did not, however, affect the time of payment for mortgages not intended as long-term credits, building loans, and some other special cases.

4. Eminent Domain (Enteignungerecht). The expropriation of property for purposes of public welfare, an old institution of German law, was extended after the end of the first World War, a trend which the National Socialist Government continued. After 1918 expropriation was applied to the improvement of settlements; other special purposes are conveyed in the names of the several statutes and decrees:

Small Gardens Act of 31 July 1919 (RGBl., p. 1371)

1. RGBl., 1926, I, 399,412; 1933, pp. 109,121.
2. RGBl., I, 525.
3. Statute of 20 December 1933, Par. 4, RGBl. I, 1092, Statute of 13 December 1935, Par. 11, RGBl. I, 1467.
4. RGBl., I, 1905.

Settlements Act of 11 August 1919 (RGBl., p. 1429)
Decree for the Alleviation of the Most Urgent Need for Low Priced Dwellings, of 9 December 1919 (RGBl., p. 1968)
Homestead Act of 10 May 1920 (RGBl., p. 962).

The statutes of the National Socialist period applied expropriation mainly to three other purposes; for the Army, for transport and industry generally, and for some special enterprises. Military interests were served by the following statutes:

Statute on Property Restrictions for Defense Purposes, of 24 January 1935 (RGBl., I, 499,1162).
Statute on the Acquisition of Land for Army Purposes, of 29 March 1935 (RGBl., I, 467).

The purposes of transportation and industry were served on the basis of the:

Railroad Act, of 30 March 1930 (RGBl., II, 369), and the
Airways Decree of 1 August 1922 and 15 December 1933 (RGBl., I, 1933, 1077),

by the following enactments:

Reich Auto Highways Decree, of 27 June and 18 December 1933 (RGBl., I, 1081; II, 509),
Decree on the Electrical Industry, of 13 December 1935 (RGBl., I, 1451).

An example of the decrees giving the right of expropriation to special enterprises is the"Decree on Land Equipment for the Hermann Goering Werke,"of 24 December 1937 (RGBl., I, 1409).

The newer statutes also changed the principle of indemnity. The older rules granted complete indemnity (vollstandige Entschadigung), and under them damages of any kind were indemnified. However, under the newer statutes payment was restricted to the fair value of the property and whatever diminution it may have suffered.

5. Registry of Real Property. The"Statute on the Registry of Real Property"(Grundbuchordnung) of 20 May 1898 was changed by two decrees of 5 August 1935.[1]

1. RGBl., I, 1065, 1073.

Since the National Socialist Government had transferred the judicial power from the states to the Reich Government by a statute of 16 February 1934, the rules of procedure for registry of real property were unified for the Reich by the decrees named above; some additional decrease provided for execution of these rules.

C. Miscellaneous Statutes

1. A statute of 13 December 1935 on the 'Transfer of Estates for Life or for a Certain Time'[1] provides the following: If an estate or servitude belongs to a corporation and the property of the corporation is transferred in toto to another person, the estate for life or for a certain time, or the servitude, is transferred unimpaired to the person acquiring the whole property of the beneficiary. This provision applies to any transfer of the whole property of the corporation, in the cases either of merger with another corporation or of sale of the whole property to another corporation or to a private person.

2. A "Statute on Bonds Issued in Foreign Currency"[2] of 26 June 1936 provides the following: If bonds have been issued in foreign currency for loans given by creditors in foreign countries, any devaluation of the foreign currency applies to the bonds and diminishes their amount in German currency accordingly. The statute is put into operation regarding any bonds described by it, notwithstanding contrary provisions in the agreement, especially the provision that the gold value of the bond should not be changed by devaluation. The statute is also applicable notwithstanding any previous decisions by courts. It is of special importance for mortgages, since it secures such bonds.

Another "Statute on Debts To Foreign Creditors"[3] of 27 May 1937 provides the following: If any amount is due to foreign creditors and the German Government rejects the application for a license to pay the amount, the duty of the debtor to pay interest is terminated. He can pay the amount to a German bank in Reichsmarks regardless of whether

1. RGBl., 1935, I, 1468.
2. RGBl., 1936, I, 515.
3. RGBl., I, 600.

the debt has been contracted in Reichsmarks or a foreign currency. The debtor is relieved of his liability by such payment and is then entitled to ask that a mortgage securing the debt be deleted from the register of the court.

3. The"Statute on the Payment of Indemnities for Confiscated Property"of 9 November 1937[1] has already been discussed above.

4. The"Statutes on the Dissolution of Entailed Property"are of importance especially for members of the German nobility. Their landed property has often been held in the form of entailed property based upon special rules dating back many years. National Socialist policy declared the estates of peasants as entailed property with more severe restrictions than existed for the entailed property of the nobility; it tried to dissolve this property of the nobility. The values involved were often very high. The statute and the decrees for its execution are very specific; for example, the decree for the execution of the statute of 30 March 1939[2] contains ninety paragraphs. A unified procedure for the dissolution of entailed estates was provided by the statute of 26 June 1935,[3] amended several times. The statute of 6 June 1938[4] abolished all restrictions on the alienation of entailed property, from the date of 1 January 1939, and the entailed property became the free property of the last possessor. A statute of 17 May 1940[5] provided similar rules for family foundations.

5. The"Statute on Small Garden Plots"of 31 July 1919, as amended on 26 June 1935 and 2 August 1940,[6] made special provisions for lots used for non-professional gardening, for which the Government fixed the rent by general order. It was provided further that the rules of the Government are binding for every contract, that the tenants are protected against termination of the leases or eviction. Moreover,

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1. RGBl., I, 1333.
2. RGBl., I, 509.
3. RGBl., I, 785.
4. RGBl., I, 825.
5. RGBl., I, 806.
6. RGBl., 1919, I 1371; 1935, p. 809; 1940, p. 1074.

only public or charitable corporations are allowed to rent real property for the purpose of subletting it for small garden plots.

6. The "Statute on the Restriction of Neighbor Rights Toward Institutions which are of Importance for Public Health" of 13 December 1933, and another act of 18 October 1935,[1] restrict the rights of the owners of real property to enjoin activities of neighboring institutes of a "public" character, such as hospitals, bathhouses, etc.

Many acts contemplate improvement of land for general and special purposes. Among these acts are statutes creating a general commission for German land (Reichsstelle für Raumordnung) or those providing for forests, agricultural development, mining, use of waterpower, and so on.

D. The Major Statutes and Decrees

As stated at the beginning of this survey, the Real Property Law of Germany is contained in Book III of the Civil Code, besides which there exist many additional statutes dealing with the transfer of real estate, mortgages, leases, protection of tenants, and many other points.

The Nazi Government changed the property law in both principal and subordinate aspects. Some of the changes are contained in statutes (Gesetze), others in decrees (Verordnungen). Statutes are made by action of the Government and the Reichstag, decrees are ordered by the Government alone in the exercise of its constitutional powers. Statutes and decrees have, however, the same legal effect. Customarily, important and new regulations were made by statutes, amendments of minor importance by decrees. But under the Nazi government the difference between statutes and decrees had become meaningless, because the Government simply ordered the Reichstag to vote the statutes formulated by the Government. Nevertheless, the Nazi Government continued to observe the constitutional forms.

The main statutes and decrees relating to the three subjects

1. RGBl., 1933, I, 1058; 1935, p. 1247.

discussed in Chapter III are listed below.

1. Statutes and Decrees Regarding Agricultural Property.

Reichserbhofgesetz (Peasants' Estate Act), of 29 September 1933 (RGBl., I, 685).

Erbhofrechtsverordnung (Decree on Peasants' Estates) of 21 December 1936, (RGBl., I, 1069) amended by decrees of 23 December 1938, 26 April 1939, and 28 September 1940 (RGBl., 1938, I, 1921; 1939, p. 843; 1940, p. 1311).

Feststellung des Erbbrauchs nach dem Reichserbhofgesetz. Gemeinschaftliche Bekanutmachung des Reichsministers der Justiz und des Reichsministers für Ernährung und Landwirtschaft (Joint Declaration of the Minister of Justice and the Minister for Food-Distribution and Agriculture on Customs for Peasants' Estates) of 28 September 1940 (Deutsche Justiz 1940, p. 1109).

Grundstücksverkehrsbekenntmachung, Bekanntmachung über der Verkehr mit landwirtschaftlichen oder forstwirtschaftlichen Grundstücken (Decree on Transactions in Agricultural Real Property and Forests) of 15 March 1918, as amended 26 January 1937 (RGBl., 1937, I, 352; later amended by decrees of 26 January 1937, 22 April 1937, 29 March 1938 (RGBl., 1937, I, 34, 102, 534; 1938, p. 361).

Gesetz über die Zinsen für den landwirtschaftlichen Realkredit (Statute on Interests for Mortgages Upon Agricultural Property) of 31 July 1935 (RGBl., 1935, I, p. 1057); amended by decrees of 4 June and 28 September 1936 (RGBl., 1936, I, 480, 852).

Gesetz zur Regelung der landwirtschaftlichen Schuldverhältniese (Statute for the Settlement of Agricultural Debts) of 1 June 1933 (RGBl., I, 331) with twenty-four additional statutes and decrees serving the same or similar purposes.

2. Statutes and Decrees Concerning Real Property Other than Agricultural Property.

Gesetz über eine Bereinigung alter Schulden (Statute on the Settlement of Old Debts) of 17 August 1938, as amended and republished on 3 September 1940 (RGBl., I, 1208).

Vierte Verordnung des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen und zum Schutz des inneren Friedens, Teil I Kap. III (Fourth Decree of the Reich President for the Protection of the Economy and Finances and the Security of Internal Peace) of 8 December 1931; amended by two decrees of 23 December 1931 and 26 March 1932 (RGBl., 1931, I, 699, 793; 1932, p. 171).

Gesetz über Hypothekenzinsen (Statute on Interest on Mortgages) of 2 July 1936 (RGBl., 1936, I, 533); amended by two decrees of 2 July 1936 (RGBl., 1936, 536 and 537).

Amendment to Verordnung über die Fälligkeit von Hypotheken und Grundschulden (Decree on the Dates of Payment of Mortgages) of 11 November 1932 (RGBl., 1932, I, 525); amended on 16 December 1932 (RGBl., 1932, I, 551) and on 27 March 1933 (RGBl., 1933, I, 149).

Gesetz über einige Massnahmen auf dem Gebiet des Kapitalverkehrs (Statute Ordering some Measures on Capital Transactions) of 20 December 1933 (RGBl., I, 1092); amended on 20 December 1934 (RGBl., I, 1255), 13 December 1935 (RGBl., I, 1467), and 22 December 1938 (RGBl., I, 1905).

Verordnung über die Zinserleichterung für den landwirtschaftlichen Realkredit (Decree on the Reduction of Interest on Mortgages on Agricultural Property) of 27 September 1932 (RGBl., I, 480); amended 24 November 1932 and 16 December 1932 (RGBl., I, 534, 562).

Gesetzeüber die Zinserleichterung und über die Zinsen für den landwirtschaftlichen Realkredit (Statutes on the Reduction of Interest and on the Interest on Mortgages on Agricultural Property) of 28 September 1934 and 31 July 1935 (RGBl., 1934, I, 860; 1935, p. 1057); amended by decrees of 4 June and 28 September 1936 (RGBl., I, 480, 852).

Gesetz über die Durchführung einer Zinsermässigung bei Kreditanstalten (Statute on the Decrease of Interest on Mortgages of Mortgage Banks) of 24 January 1935 (RGBl., 1935, I, 45), with decrees of 1 March 1935, 26 March 1935, 25 June 1935, 22 September 1935, 7 February 1936, and 13 April 1937 (RGBl., 1935, I, 346, 470, 808, 1179; 1936, pp. 62, 734; 1937, p. 455).

Gesetz betreffend die Ermöglichung der Kapitalkreditbeschaffung für landwirtschaftliche Pächter (Statute regarding Easier Credit for Tenants of Agricultural Property) of 9 July 1926 (RGBl., 1926, I, 399, 412); 18 March 1933 (RGBl., pp. 109, 121).

The Statutes on Eminent Domain have been described in detail in the text above (III, B, 4).

Changes in the Registry of Real Property (Grundbuchordnung) have been described in the text above (III, B, 5).

3. Statutes and Decrees on Miscellaneous Aspects of the Real Property Law.

Gesetz über die Veräusserung von Niessbrauchsrechten und beschränkten persönlichen Dienstbarkeiten (Statute on the Transfer of Estates for Life or for a Certain Time), of 13 December 1935 (RGBl., I, 1468), with the decree of 12 June 1936 (RGBl., I, 489).

Gesetz über Fremdwährungsschuldverschreibungen (Statute on Bonds Issued in Foreign Currency) of 26 June 1936 (RGBl., 1936, I, 515), with decree of 5 December 1936 (RGBl., 1936, I, 1010).

Gesetz zur Regelung von Kapitalfälligkeiten gegenüber dem Ausland (Statute on the Payment of Debts to Foreign Creditors) of 27 May 1937 (RGBl., 1937, I, 600), and decree of 11 October 1937 (RGBl., 1937, I, 1125).

Gesetz über die Gewährung von Entschädigungen bei der Einziehung und dem Übergang von Vermögen (Statute on the Payment of Indemnities for Confiscated Property) of 9 November 1937 (RGBl., 1937, I, 1333), with many decrees, especially of 18 March 1938 and 8 October 1940 (RGBl., 1938, I, 317; 1940, p. 1340).

Gesetz zur Vereinheitlichung der Fideikomissauflösung (Statute on Dissolution of Entailed Property) of 26 June 1935 (RGBl., 1935, I, 785), with many additional statutes and decrees, especially those of 24 August 1935, 28 June 1938, 6 July 1938, 20 March 1939, 21 December 1939, and 17 May 1940 (RGBl., 1935, I, 1103; 1938, pp. 698, 825; 1939, pp. 509, 2459; 1940, p. 806).

Kleingarten - und Kleinpachtlandordnung (Statute on Small Garden Plots)

of 31 July 1919, as amended 26 June 1935 and 2 August 1940 (RGBl., 1919, p. 1371; 1935, I, 809; 1940, p. 1074).

Gesetz über die Beschränkung der Nachbarrechte gegenüber Betrieben die für die Volkserтüchtigung von besonderer Bedentung sind (Statute on the Restriction of Neighbor Rights Toward Institutions which are of Importance for the Public Health) of 13 December 1933, and a similar statute of 18 October 1935 (RGBl., 1933, I, 1058; 1935, p. 1247).